



**Maricopa County**  
Elections Department

**Karen Osborne, Director**

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September 2, 2009

Hon. Andrew Thomas  
Maricopa County Attorney  
301 W. Jefferson Street  
Phoenix, AZ 85003

**Re: Finding of Reasonable Cause**

Dear Mr. Thomas:

As the filing officer for Maricopa County, and in accordance with A.R.S. § 16-924, I have found reasonable cause to believe that a number of individuals and entities have acted individually and in concert to violate the provisions of A.R.S. § 16-901, et seq.

The background of this matter is detailed in the Department's May 27, 2009 Final Decision, attached as Exhibit A. Briefly summarized: The Arizona Republican Party received two checks from an entity identified only as "SCA." One check for \$80,000.00 was dated August 21, 2008, the second for \$25,000.00 was dated September 10, 2008. Mr. Joel Fox signed both checks. ALJ at ¶ 4.<sup>1</sup>

On October 14, 2008, the Arizona Democratic Party filed a Complaint with the Maricopa County Elections Department alleging that SCA's contributions to the Republican Party violated several provisions of Arizona law. On October 30, 2008, the Department "in accordance with A.R.S. § 16-924" found that there was reasonable cause to believe that SCA had violated A.R.S. §§ 16-902.01, 16-907(B) and 16-915.

By letter dated November 12, 2008, Special Counsel provided Mr. Fox a copy of the Complaint and the Arizona Republican Party's previously filed response to the State Election Director. That letter asked Mr. Fox to respond to the allegations. ALJ at ¶ 10. Mr. Fox responded to that letter and denied the allegations of the Complaint, but admitted that SCA was a group of individuals who had contributed money to a common fund over which Mr. Fox had sole discretion. Mr. Fox also admitted he sent the checks to the Arizona Republican Party, but denied

<sup>1</sup> The abbreviation ALJ at ¶ \_\_\_\_ will be used to reference paragraphs in the recommend decision of the Administrative Law Judge which the Department adopted in its May 27, 2009 Final Decision.

it was a “contribution” or that SCA was a “Political Committee.” ALJ at ¶¶ 11-13.

In a letter dated November 24, 2008, Special Counsel informed Mr. Fox that regardless of the original intent, once Mr. Fox made the decision to donate money to the Republican Party, he transformed SCA into a Political Committee because SCA was a combination of persons conducted for the purpose of influencing the result of any election. ALJ at ¶ 14. That letter also informed Mr. Fox that as SCA’s *de facto* treasurer, he was responsible for the recordkeeping requirements set out in A.R.S. § 16-904. The letter formally requested that Mr. Fox provide the records required to be kept under A.R.S. § 16-904(D), (F), (G) and (H). ALJ at ¶ 15. Among other things, those records would reveal the identities of the contributors and the amount(s) of their contributions.

Mr. Fox refused to provide the requested records and after several additional exchanges, Special Counsel issued a Compliance Order pursuant to A.R.S. § 12-924. *See* ALJ at ¶¶ 16-18. Among other things, that Compliance Order required Mr. Fox to produce the above-referenced records, pay a \$450.00 fine and imposed a penalty of three times the amount Mr. Fox/SCA contributed to the Arizona Republican Party – \$315,000.00. On December 22, 2008, Mr. Fox requested a hearing pursuant to A.R.S. § 16-924(A).

The Department referred Mr. Fox’s hearing request to the Office of Administrative Hearings. Administrative Law Judge Thomas Shedden conducted an evidentiary hearing on March 31, 2009 and ordered the parties to submit written closing arguments. After reviewing those arguments, Judge Shedden issued a recommended decision on May 26, 2009. Among other things, Judge Shedden found that SCA was a Political Committee within the meaning of A.R.S. § 16-901(19) (ALJ at ¶ 10); the money SCA donated to the Arizona Republican Party was a “contribution” within the meaning of A.R.S. § 16-901(5) (ALJ at ¶ 13), Mr. Fox was performing the function of treasurer for SCA as that term is used in A.R.S. § 16-901 *et seq.*, and was, therefore, required to maintain the records set forth in A.R.S. § 16-904 and provide them to the County Attorney when requested to do so pursuant to A.R.S. § 16-904(I) (ALJ at ¶ 23).

The recommended decision fined Mr. Fox \$450.00 for a proven violation of A.R.S. § 16-913(B)(4), it also ordered Mr. Fox to provide copies of the records previously requested within twenty days of the effective date of the Agency’s Final Decision. It did not impose a penalty of three times the amount Mr. Fox/SCA contributed to the Arizona Republican Party (*i.e.*, \$315,000.00) as the ALJ concluded that the Compliance Order had imposed that penalty prematurely. *See* ALJ at ¶¶ 25-36.

The Final Decision accepting and adopting the recommended decision was issued on May 27, 2009. Mr. Fox filed a timely Complaint for Judicial Review of that Final Decision. The parties subsequently entered into a Settlement Agreement dated July 13, 2009 (copy attached).

Among other things, that Agreement required Mr. Fox to provide the Department copies of his notes identifying the contributors to SCA along with their addresses, occupations and



employers, as well as amounts and dates of their contributions. In addition, it required Mr. Fox to provide the Department complete copies of the monthly account statements for SCA's bank accounts. It also required Mr. Fox to provide and/or permitted the Department to subpoena documents verifying the identity of any contributors to SCA.

The Agreement provided that Mr. Fox's full performance of the Agreement would satisfy the Department's May 27, 2009 Final Decision and end any further civil proceedings. However, the Agreement expressly stated that it would not preclude any criminal enforcement of any provisions that may be applicable to the conduct of Mr. Fox, SCA and/or any contributors to SCA.

Copies of the documents the Department obtained from Mr. Fox and third-party financial institutions are attached. Based on my review of those documents, I have found reasonable cause to believe that Mr. Fox and the other contributors to SCA violated A.R.S. §§ 16-907(A) and (B) and 16-919(A).

In addition to the documents attached, there were numerous exhibits and pleadings filed in the proceedings before Administrative Law Judge Thomas Shedden and on appeal before Superior Court Judge Robert Houser. In addition, the Department is aware that the Arizona Attorney General's Office is also conducting an investigation and may have access to additional materials.

Sincerely,

A handwritten signature in cursive script, appearing to read "Karen Osborne".

Karen Osborne  
Maricopa County Election Director